

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

ROBERTO ROCA BUIGAS, et al.

Plaintiffs

v.

LM WASTE SERVICES CORP., et
al.

Defendants

CASE NO: 19cv1044 (DRD)

**MOTION FOR LEAVE TO FILE EX PARTE PURSUANT TO STANDING
RULE NO. 9**

TO THE HONORABLE COURT:

COME NOW, Plaintiffs, Roberto Roca et al, through the undersigned counsel, and respectfully move the court for leave to file *ex parte* motions which relate to the Writ of Execution of Judgment issued by the Clerk of the Court at Docket 214.

According to Rule 69(a)(1) of the Federal Rules of Civil Procedure “[t]he procedure on execution—and in proceedings supplementary to and in aid of judgment or execution—must accord with the procedure of the state where the court is located, but a federal statute governs to the extent it applies.” The Puerto Rico Supreme Court has

ruled that a plaintiff-judgment-creditor filing a motion related to the writ of execution of judgment does not have to give notice to the defendant-judgment-debtor or those affected by the writ of execution.

In Aviles-Vega v. Davila, 97 D.P.R. 144, 1969 PR Sup. LEXIS 124 (official translation), the Puerto Rico Supreme Court held:

In our opinion it is improbable that the contrary is the intent of the rules—or before, of the Code—since such notice would have the effect of warning the debtor, giving him the opportunity to conceal or transfer property, thus thwarting the purpose of the writ of execution. Such notice is only required if over five years have elapsed after the judgment became final ...

Thus, the Puerto Rico procedure for execution of judgments allows plaintiffs to file motions related to the Writ of Execution without notice to other parties.

WHEREFORE, plaintiffs respectfully request leave to file any and all motions related to the Writ of Execution be filed *ex parte*.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico this 20th day of July 2023.

s/ Alberto J. Castañer-Padró
Alberto J. Castañer-Padró
USDC 225706
Castañer & Cía PSC
MAI Center
Marginal Kennedy

771 Calle 1, Ste 204
San Juan PR 00920
Fax 1 888 227 5728
Tel 787 707 0802
alberto@castanerlaw.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this same date, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the District of Puerto Rico by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

By: S/Alberto J. Castañer
Alberto J. Castañer
USDC-PR No. 225706